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**STATUS INFORMATION**

General Bill

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Summary: Equity in Education Act

**HISTORY OF LEGISLATIVE ACTIONS**

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**VERSIONS OF THIS BILL**

[4/19/2011](file:///p:\pprever\2011-12\829_20110419.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 7 TO CHAPTER 63, TITLE 59 SO AS TO ENACT THE “EQUITY IN EDUCATION ACT”, TO PROVIDE QUALIFYING STUDENTS WITH THE OPTION TO TRANSFER TO ANOTHER PUBLIC SCHOOL OR TO AN INDEPENDENT SCHOOL UPON CERTAIN CONDITIONS, TO PROVIDE DEFINITIONS, TO PROVIDE FOR SCHOLARSHIPS TO ATTEND INDEPENDENT SCHOOLS, TO PROVIDE REQUIREMENTS AND ACCOUNTABILITY MEASURES FOR INDEPENDENT SCHOOLS WHO ACCEPT STUDENTS PURSUANT TO THIS ARTICLE, TO REQUIRE AT‑RISK PUBLIC SCHOOLS TO PROVIDE NOTICE TO PARENTS OF THEIR STATUS AND THE OPTION TO TRANSFER, TO ALLOW FOR THE PROMULGATION OF NECESSARY REGULATIONS, TO ALLOW THE DEPARTMENT OF REVENUE TO UNDERGO NECESSARY INVESTIGATIONS, TO PROVIDE REPORTING AND EVALUATION REQUIREMENTS, AND TO PROVIDE MISCELLANEOUS PROVISIONS.

Whereas, many parents in South Carolina would like the opportunity to transfer their children to another public or independent school but do not have the financial or political clout to do so; and

Whereas, many parents have special needs children that require more attention than our public schools may be able to offer, and the unique costs associated with the care of special needs children create an undue financial burden; and

Whereas, many parents have children who have been suspended or expelled and have no financial resources to help their children; and

Whereas, it is prudent for the State to do everything in its power to help educate our children, in whatever setting will work; and

Whereas, recognizing that the education of our children is of paramount importance, the purpose of this act is to assist parents in creating opportunities for their children that would otherwise not be possible. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. SECTION 1. This act is known and may be cited as the “Equity in Education Act”.

SECTION 2. Chapter 63, Title 59 of the 1976 Code is amended by adding:

“Article 7

Equity in Education Act

Section 59‑63‑710. As used in this article:

(1) ‘Department’ means the South Carolina Department of Education.

(2) ‘Expelled’ means a child who cannot attend school for the entire school year or any future school years.

(3) ‘Independent school’ means a school, other than a public school, at which the compulsory attendance requirements of Section 59‑56‑10 may be met and that does not discriminate based on the grounds of race, color, or national origin. For purposes of this article, ‘independent school’ does not include a home in which a parent or legal guardian teaches one or more children as authorized pursuant to Section 59‑65‑40, 59‑65‑45, or 59‑65‑47.

(4) ‘Parent’ means the natural or adoptive parent or legal guardian of a child.

(5) ‘Public school’ means a public school in this State as defined in Section 59‑1‑120.

(6) ‘Qualifying student’ means a student who is a South Carolina resident and who:

(a) is determined to be physically or mentally handicapped as defined in Section 59‑21‑510;

(b) has been expelled from a public school and whose family income level does not exceed two hundred fifty percent of the Federal Poverty Level; or

(c) is enrolled or zoned to be enrolled in a transfer option public school as defined in Section 59‑63‑710(10) and whose family income level does not exceed two hundred fifty percent of the Federal Poverty Level.

(7) ‘Release of information form’ means a document developed by a school that is signed by the parent of a qualifying student and that acknowledges the parents consent to the release of information contained in the receipt.

(8) ‘Scholarship’ means a check issued by the department jointly to the independent school and to the parents of the qualifying student in the amount of scholarship available or the actual tuition required to send the student to the independent school, whichever is less.

(9) ‘State’ means the State of South Carolina.

(10) ‘Transfer option public school’ means a public school in this State that has received a rating of ‘at–risk’ as its absolute grade on its most recent annual report card under the Education Accountability Act, as provided in Chapter 18 of this title.

(11) ‘Tuition’ means the total amount of money charged for the cost of a qualifying student to attend an independent school, including, but not limited to, fees for attending the school and fees for school–related transportation.

Section 59‑63‑720. (A) A student is eligible to receive a scholarship if the student transfers to an independent school and:

(1) is determined by a school psychologist to be physically or mentally handicapped according to the definitions provided in Section 59‑21‑510;

(2) has been expelled as defined in Section 59‑63‑710, and his family income does not exceed two hundred fifty percent of the Federal Poverty Level;

(3) attended another public school and has been assigned to attend a transfer option public school, and his family income does not exceed two hundred fifty percent of the Federal Poverty Level; or

(4) has spent the prior school year in attendance at a transfer option public school, and his family income does not exceed two hundred fifty percent of the Federal Poverty Level.

(B) For a qualifying student who transfers to a public school pursuant to this article, one hundred percent of the State’s total allocation to the school district in which the student resides for the preceding academic year divided by the initial average daily membership of that school district must be distributed directly to the receiving school.

Section 59‑63‑730. (A) For a special needs student for whom tuition is paid to attend an independent school for which a scholarship is claimed, the scholarship may not exceed the lesser of:

(1) one hundred percent of the State’s base student cost multiplied by the weighted pupil unit for the handicap; or

(2) the amount of actual tuition paid.

(B) For a student who has been expelled as defined in Section 59‑63‑710, for whom tuition is paid to attend an independent school, the scholarship may not exceed the lesser of:

(1) one hundred percent of the base student cost if the student was expelled the prior school year or a prorated portion based on when the expulsion or suspension occurred as defined in Section 59‑63‑710; or

(2) the amount of actual tuition paid.

(C) For any other student who is zoned to attend a transfer option public school but for whom tuition is paid to attend an independent school for which a scholarship is claimed, the scholarship may not exceed the lesser of:

(1) one hundred percent of the base student cost; or

(2) the amount of actual tuition paid.

(D) For any student for whom a scholarship is paid to attend an independent school and whose enrollment at the independent school is terminated for any reason during the academic year, the independent school shall notify the department so that a scholarship may not be taken for the student for the next school year.

Section 59‑63‑740. An independent school that accepts students pursuant to this article shall:

(1) comply with federal antidiscrimination law pursuant to 42 U.S.C. Section 1981;

(2) meet state and local health and safety laws and codes;

(3) comply with state statutes relating to independent schools;

(4) employ or contract with teachers who hold baccalaureate or higher degrees, have at least three years of teaching experience in a public or independent school, or have special skills, knowledge, or expertise that qualify them to provide instruction in subjects taught;

(5) be academically accountable to the parent for meeting the education needs of the student;

(6) administer to all students a nationally recognized achievement test and report the school’s aggregate score to all parents in accordance with Section 59–63–750;

(7) accept scholarship students who meet the admissions criteria of the school, without regard to the student’s past academic history, with preference given to siblings of other scholarship students; and

(8) have a physical location in the State of South Carolina where the students attend classes.

Section 59‑63‑750. To ensure that an independent school provides academic accountability to parents of students, a participating independent school annually shall administer either the Palmetto Assessment of State Standards (PASS) test or its equivalent, or a nationally recognized norm–referenced test, approved by the South Carolina State Superintendent of Education. Participating independent schools shall disclose the aggregate results of the tests by grade level, but only if the disclosure of the aggregate results complies with 20 U.S.C. Section 1232g, Family Educational Rights and Privacy Act of 1974, and shall provide the parents of each student with a copy of the results. Participating independent schools also shall provide aggregate results by grade level to the chairman of the House Education and Public Works Committee and Senate Education Committee and the Governor no later than July thirty‑first of the school year in which the tests are administered.

Section 59‑63‑760. (A) A school that received a rating of ‘at‑risk’ as its absolute grade on its most recent annual report card shall provide notice to the parents of students zoned to attend that school of its status as an at‑risk school and of the options available to transfer to another public school or an independent school.

(B) If a qualifying student transfers to another public school, the parents or legal guardian of the student shall notify the receiving school of the transfer and shall provide transportation to the receiving school.

(C) Upon written request, a transfer option public school shall provide parents with access to the school’s aggregate testing information, results, and related statistics.

Section 59‑63‑770. The department may promulgate regulations to aid in the performance and assessment of its duties pursuant to the provisions of this article; however, its power does not extend to matters of school governance, curriculum, hiring or firing, or religious beliefs or practices of independent schools.

Section 59‑63‑780. All powers possessed by the Department of Revenue as provided in Title 12 to conduct examinations and investigations apply to examinations and investigations conducted pursuant to this article.

Section 59‑63‑790. (A) Annually, the State Budget and Control Board, with the assistance of the department and the local school districts, shall provide for the preparation of a report on the fiscal impact of the implementation of this chapter on school enrollment and state and local funding of public schools for the fiscal year most recently completed. The report must include, but need not be limited to, an analysis of and statement on the:

(1) change in public school enrollment, by school district, attributable to this article; and

(2) amount of funds the State would have had to expend for public schools under the education funding formula in existence on or before the enactment of this chapter and the amount actually expended by the State in public schools.

(B) The report must be submitted by December first of each year to the Governor, the Chairman of the Senate Finance Committee, the Chairman of the Senate Education Committee, the Chairman of the House Ways and Means Committee, and the Chairman of the House Education and Public Works Committee.

Section 59‑63‑800. (A)(1) In addition to the annual report as provided in Section 59‑63‑790, the State Budget and Control Board shall provide for a long–term evaluation of the impact of this article. The evaluation must be conducted for a three‑year period beginning after enactment of this section. The evaluation must include an assessment of the:

(a) level of parental satisfaction for parents of students participating in the scholarship program provided in this chapter;

(b) academic performance of participating independent schools and transfer option public schools;

(c) impact of the provisions of this article on public school districts, public school students, independent schools, and independent school students; and

(d) impact of the provisions of this article on independent school and public school capacity, availability, and quality.

(2) The evaluation must be conducted using appropriate analytical and behavioral science methodologies and must protect the identity of participating schools and students by, at a minimum, keeping anonymous all disaggregated data other than that for the categories of grade, gender, race, and ethnicity. The evaluation of public and independent school students must compute the relative efficiency of public and independent schools, the value added to educational performance by independent schools relative to failing public schools, and a comparison of acceptance rates into college, while adjusting or controlling for student and family background.

(B) State and local governmental entities shall cooperate with the persons or entities conducting the evaluation required in subsection (A). Cooperation includes providing available student assessment results and other information needed to complete the evaluation.

(C) By January thirty–first of each year, the State Budget and Control Board shall make available to each member of the General Assembly interim reports of the results of the evaluation. Upon completion of the evaluation, the State Budget and Control Board shall provide a final report to each member of the General Assembly. At the same time as the final report is made public, the persons or entities who conducted the evaluation must make their data and methodology available for public review and inspection, but only if the release of the data and methodology complies with 20 U.S.C. Section 1232g, Family Educational Rights and Privacy Act of 1974.

Section 59‑63‑810. The provisions of this article regarding independent schools only apply to independent schools that choose to accept scholarship students.

Section 59‑63‑820. (A) An independent school that accepts students benefiting from scholarships is not an agent or arm of the state or federal government.

(B) Except as provided in this article, the department, Department of Revenue, State Budget and Control Board, or any other state agency may not regulate the educational program of an independent school that accepts students pursuant to the provisions of this article.

(C) One purpose of this article is to allow maximum freedom to parents and independent schools to respond to and provide for the educational needs of children without governmental control, and this act must be liberally construed to achieve that purpose.”

SECTION 3. If a section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, this holding does not affect the constitutionality or the validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words thereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon approval by the Governor and applies at the start of the first school year after approval of this act.

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